



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

May 13, 2015

Memorandum for: Deputy Commissioner Trials

Re: **Police Officer Kevin Price**
Tax Registry No. 894877
66 Precinct
Disciplinary Case No. 2013-10268

The above named member of the service appeared before Assistant Deputy Commissioner Amy J. Porter on January 8, 2015, and was charged with the following:

DISCIPLINARY CASE NO. 2013-10268

1. Said Police Officer Kevin Price, assigned to the 75 Precinct, on or about and between October 11, 2007, and August 2, 2013, knowingly associated with civilian Person A, a person said Police Officer knew to have engaged in criminal activities, by telephone and personal contact.

PG 203-10, Page 1, Paragraph 2(c)
PROHIBITED CONDUCT

GENERAL REGULATIONS PUBLIC -

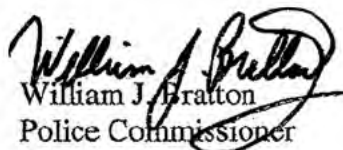
2. Said Police Officer Kevin Price, assigned to the 75 Precinct, on or about and between October 11, 2007, and August 2, 2013, failed to comply with an order to cease his association with civilian Person A, a person said Police Officer knew to have engaged in criminal activities.

PG 203-03, Page 1, Paragraph 2

GENERAL REGULATIONS
COMPLIANCE WITH ORDERS

In a Memorandum dated March 18, 2015, Assistant Deputy Commissioner Amy J. Porter found Police Officer Kevin Price Guilty, after he Pleaded Guilty, of Specification Nos. 1 and 2 in Disciplinary Case No. 2013-10268. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues in the various acts of misconduct for which Police Officer Price has been found Guilty and deem that a period of monitoring is warranted. Therefore, Police Officer Price's disciplinary penalty shall be the forfeiture of thirty (30) vacation days and the imposition of one (1) year dismissal probation.


William J. Bratton
Police Commissioner



POLICE DEPARTMENT

March 18, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Kevin Price
Tax Registry No. 894877
66 Precinct
Disciplinary Case No. 2013-10268

The above-named member of the Department appeared before me on January 8, 2015, charged with the following:

1. Said Police Officer Kevin Price, assigned to the 75 Precinct, on or about and between October 11, 2007, and August 2, 2013, knowingly associated with civilian Person A, a person said Police Officer knew to have engaged in criminal activities, by telephone and personal contact.

P.G. 203-10, Page 1, Paragraph 2(c) GENERAL REGULATIONS PUBLIC
CONTACT PROHIBITED CONDUCT

2. Said Police Officer Kevin Price, assigned to the 75 Precinct, on or about and between October 11, 2007, and August 2, 2013, failed to comply with an order to cease his association with civilian Person A, a person said Police Officer knew to have engaged in criminal activities.

P.G. 203-03, Page 1, Paragraph 2 – GENERAL REGULATIONS
COMPLIANCE WITH ORDERS

The Department was represented by Rudolph Behrmann, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent admitted that, after being ordered to cease association, he maintained telephone contact with an acquaintance known to have engaged in criminal activity.

On September 25, 2007, Respondent was informed by the Internal Affairs Bureau (IAB) that his professional acquaintance, Person A, was a convicted felon. As a result of the investigation, Respondent was ordered to cease all contact with Person A.

Respondent met Person A about ten years ago in the 75 Precinct, when Person A responded to a motor vehicle accident as a member of the Department's Directed Accident Response Program (D.A.R.P. Tow). After speaking with Person A, Respondent discovered that they shared the same unique hobby: pigeon racing.

Before learning about Person A's criminal past, Respondent had maintained a professional and hobby-based relationship with Person A. Respondent, an avid pigeon racer, stated that Person A was well-known for having over thirty years of experience racing, breeding, and raising pigeons.

Respondent noted that in the past ten years he was contacted by producers of Mike Tyson's pigeon racing television show. Although he permitted the producers to

borrow his pigeons for the program, Respondent declined to get directly involved with Tyson because of his known criminal past.

After being informed of Person A's criminal record on September 25, 2007, Respondent immediately removed all property that he had kept at Person A's place of business. In compliance with the order, Respondent did not come into personal contact with Person A unless Person A came by the precinct on behalf of his towing company or if he happened to show up at a public pigeon auction. When Person A did show up at a pigeon-related event, Respondent would leave.

Respondent testified that after his interview with IAB, his only contact with Person A was over the telephone. When Respondent's pigeons began to fall deathly ill, he was uncertain that anyone else besides Person A could properly advise him on how to stop the disease from spreading. Because of the competitive nature of pigeon racing, most experienced racers are not forthcoming with helpful information to potential opponents. At the time, Person A was retired from pigeon racing. In a desperate attempt to save his pigeons, Respondent called Person A for caretaking advice.

Respondent conceded that between 2011 and 2012, he called Person A approximately ten times. He testified that he was confused about the nature of contact he was permitted to have with Person A, and assumed that speaking by telephone was in compliance with that order. Respondent's telephone conversations with Person A were only about their shared love and interest in the raising, breeding, caring, and racing of pigeons. Respondent did not make any effort to ask IAB to clarify the criminal association policy or whether it permitted telephone conversations. When questioned on cross-

examination whether he thought he should have asked IAB for clarification, Respondent replied, "No."

Since being transferred to the 66 Precinct last year, Respondent maintained that, based on instructions given to him by Department supervisors, he has "1,000 percent" ceased all contact with Person A.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 11, 1988. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

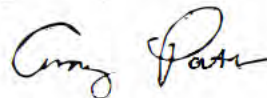
Respondent has pled guilty to knowingly associating with Person A, a person he knew to have engaged in criminal activities, even after being ordered to cease the association. The Assistant Department Advocate (Advocate) recommended a penalty of 30 vacation days and one-year dismissal probation. In support of this recommendation, the Advocate cited cases in which a 17-year police officer with one prior adjudication continued to live with a woman after being ordered to cease all contact with her, a case in which a seven-year police officer with no prior disciplinary record continued to associate with her boyfriend after being instructed to cease contact, failing to safeguard her computer code, and making numerous unauthorized computer inquiries, and a case in which a 16-year sergeant with no prior disciplinary record associated with known

criminals during his 35 visits to illegal gambling locations. *Case No. 2010-0036* (Jan. 4, 2013), *Case No. 2010-3333* (Aug 2, 2012), *Case No. 2011-5952* (Dec. 4, 2012).

The cases cited above dealt with misconduct more egregious than Respondent's. Upon becoming aware of Person A's criminal record, Respondent limited his personal contact with him to telephone calls about pigeons. This type of association is similar to the four following cases. In the first case, a 12-year member with no prior disciplinary record forfeited 20 vacation days for employing an individual with an arrest record to fix his car and having telephone contact with him on numerous occasions. *Case No. 81315/05* (May 30, 2006). In *Case No. 2011-3475* (Jan. 31, 2012), a 22-year police officer with no prior disciplinary history forfeited 20 vacation days for maintaining telephone contact with someone on criminal probation. In *Case No. 2011-3517* (Jan. 23, 2013), a nine-year police officer with no prior disciplinary record forfeited 15 vacation days for associating over the phone with an individual who had been arrested for narcotics. In the fourth case, an eight-year police forfeited ten vacation days for having innocuous telephone conversations with an individual he should have known was engaged in criminal activity. *Case No. 2012-7096* (Jul. 23, 2014).

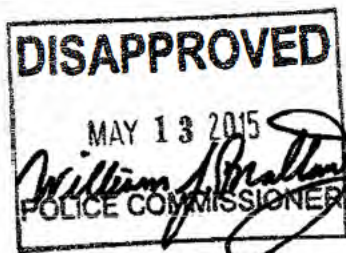
Based on the foregoing precedent in conjunction with Respondent's prior disciplinary history, it is recommended that Respondent forfeit a penalty of 30 vacation days.

Respectfully submitted,



Amy J. Porter

Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT
CITY OF NEW YORK

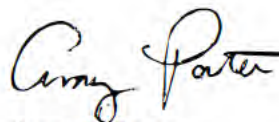
From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER KEVIN PRICE
TAX REGISTRY NO. 894877
DISCIPLINARY CASE NO. 2013-10268

In 2014, Respondent received an overall rating of 3.5 “Highly Competent/Competent” on his annual performance evaluation. He was rated 4.0 “Highly Competent” in 2012 and 4.5 “Extremely Competent/Highly Competent” in 2013. He has been awarded two medals for Excellent Police Duty and two for Meritorious Police Duty.

[REDACTED]
[REDACTED]. He has been on Level II Discipline Monitoring since April 2014 as a result of the pending charges.

Respondent has been the subject of two prior adjudications. A 2003 case resulted in all charges against him being dismissed. In 2005, he forfeited a penalty of 15 vacation days for failing to properly safeguard his off duty firearm.

For your consideration.



Amy J. Porter
Assistant Deputy Commissioner – Trials